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## **OLR Bill Analysis**

### **HB 6443**

#### ***AN ACT CONCERNING IMMIGRATION SERVICES FRAUD.***

##### **SUMMARY:**

This bill sets requirements for immigration service provider written contracts, by requiring specified terms and notices. Presumably, it requires such a contract for providing these services. The bill also prohibits providers from making certain representations and guarantees and gives buyers a three-day cancellation period for a full refund and allows them to terminate the contract at any time.

The bill makes a provider liable for triple the amount the buyer actually paid under a contract found to be in material violation of the bill. Violations are also an unfair or deceptive trade practice.

The bill exempts the following from the contract requirements:

1. Connecticut-licensed attorneys and those who work directly under their supervision;
2. nonprofit tax exempt organizations, and their employees acting within the scope of their employment, that provide immigrant assistance for a nominal fee or for free;
3. any organization that does not charge a fee or charges nominal fees and is recognized by the federal Board of Immigration Appeals that provides services through representatives accredited by the board to appear before the U.S. Bureau of Citizenship and Immigration Services (USCIS) or Executive Office for Immigration Review.

EFFECTIVE DATE: July 1, 2013

##### **IMMIGRATION SERVICES**

Under the bill, immigration services mean services provided for a fee or other compensation to a person who has come or plans to come to the United States from a foreign country, or such person's representative. The service relates to any proceeding, filing, or action affecting the non-immigrant, immigrant, or citizenship status of the person under an immigration and nationality law; executive order; presidential proclamation; or action or regulation of USCIS or the federal or state labor departments.

### **CONTRACT REQUIREMENTS**

The bill requires a copy of the immigration services contract to be delivered to the buyer when the contract is signed.

The contract must:

1. be in writing,
2. be signed by both parties,
3. designate the actual date the buyer signs the contract,
4. identify the address where the buyer entered the contract,
5. be in English and any other language in which the provider provides or offers to provide immigration services, and
6. provide that the contract may be cancelled within three business days after the buyer receives a copy of the contract (business days exclude Sundays and legal holidays).

The contract must also include a statement of the buyer's rights in 10-point bold face type that (1) appears in the contract under the conspicuous caption: "BUYER'S RIGHT TO CANCEL" and (2) reads as follows:

"If you wish to cancel this contract, you may cancel by mailing a written notice by certified or registered mail to the address specified below. The notice must say that you do not wish to be bound by this contract and must be delivered or mailed before midnight of the third

business day after you sign this contract. After you cancel, the provider may request the return of all contracts and previously delivered documents. The notice shall be delivered or mailed to:

....

....

(Insert name and mailing address for cancellation notice.)”

### **CONTRACT CANCELLATION/TERMINATION**

The bill requires providers to send the buyer written confirmation of the cancellation within 15 days of receiving the buyer’s cancellation notice. If the provider does not send the notice, it is deemed an accepted cancellation.

Under the bill, cancellations can be done without liability to the buyer and entitle him or her to a full refund of the contract within 15 days. Any cancellation refund must be delivered by the provider to the buyer within 15 business days after receiving the cancellation notice. This right to a refund may not be affected by any contract terms, waived, or surrendered.

A buyer must be able to terminate a contract at any time and this right must not be affected by the contract terms and may not be waived or surrendered. It is unclear what type, if any, of refund will be given for contract termination after the three business days after signing.

### **DISCLAIMER NOTICE**

The bill requires each contract the provider enters to include the following statement in capital letters and at least 12-point bold face type:

“I AM NOT AN ATTORNEY LICENSED TO PRACTICE LAW AND MAY NOT GIVE LEGAL ADVICE OR ACCEPT FEES FOR LEGAL ADVICE. I AM NOT ACCREDITED TO REPRESENT YOU BEFORE THE UNITED STATES CITIZENSHIP AND IMMIGRATION

SERVICES AND THE IMMIGRATION BOARD OF APPEALS.”

### **PROHIBITED ACTS**

The bill prohibits a provider from (1) offering a guaranteed result or (2) making representations of (a) having influence over government officials, agencies, or courts or (b) access to programs or legal remedies not available to the general public.

### **PENALTIES**

A provider may be liable to the buyer for triple the amount the buyer actually paid under the contract if the contract is found to be in material violation of the bill. In addition to the buyer’s judgment, the court may allow reasonable attorney’s fees.

Any violation of the bill is an unfair or deceptive trade practice.

### **BACKGROUND**

#### ***Connecticut Unfair Trade Practices Act (CUTPA)***

The law prohibits businesses from engaging in unfair and deceptive acts or practices. CUTPA allows the Department of Consumer Protection commissioner to issue regulations defining what constitutes an unfair trade practice, investigate complaints, issue cease and desist orders, order restitution in cases involving less than \$5,000, enter into consent agreements, ask the attorney general to seek injunctive relief, and accept voluntary statements of compliance. It also allows individuals to sue. Courts may issue restraining orders; award actual and punitive damages, costs, and reasonable attorney’s fees; and impose civil penalties of up to \$5,000 for willful violations and \$25,000 for violation of a restraining order.

### **RELATED BILL**

HB 5513, reported favorably by the Judiciary Committee, clarifies what notaries publics may not do in immigration matters.

### **COMMITTEE ACTION**

General Law Committee

Joint Favorable

Yea 18 Nay 0 (03/12/2013)